

REMARKS

The rejection of claims 1-3 under 35 USC § 101 is maintained.

The Examiner states that there is no evidence in the specification or any art of record to demonstrate that any of the polynucleotides of SEQ ID NOS: 1, 2, 23, 24, 25 are actually translated into proteins. The Examiner states that there is no evidence in the specification or any art of record to demonstrate the shedding of the putative proteins into the bloodstream due to cancer of the GI tract or any other diseases of the GI tract. These claims have been canceled.

Furthermore, Applicant respectfully directs Examiner's attention to the enclosed Declaration of Philip Hemken under 37 CFR § 1.132. This Declaration describes the results of Band Scans for CS197. The Declaration and accompanying data clearly illustrate that the CS197 marker is able to distinguish normal colon tissue from tumor colon tissue.

Specifically, this can be seen by comparing the "NORMAL" and "TUMOR" results of peaks 1-8 in FIG. 1 of the Declaration. "TUMOR" colon sample peaks 1-4 express CS197 at significantly higher levels than the "NORMAL" colon sample peaks 5-8. Thus, CS197 expression is upregulated in tumor colon tissue samples versus normal colon tissue samples. On average, CS197 expression is 2.8 fold *more* in the tumor colon tissue sample pools (CT1 and CT2) than in the normal colon tissue samples (CN1 and CN2). Such upregulation indicates that cancer alters the CS197 polynucleotide such that expression in its normal host tissue is disrupted upon tumor growth. Clearly, CS197 is useful as a diagnostic tool to distinguish normal colon tissue from tumor colon tissue.

In light of the above amendments and remarks, Applicant respectfully submits that the new claims are in a condition for allowance and requests that this rejection be withdrawn.

Claims 1-3 are also rejected under 35 USC § 112, first paragraph as containing subject matter that, because it is not supported by either an asserted utility or a well-established utility, was not described in the specification in such a way as to enable one skilled in the art to make and/or use the invention. These claims have been cancelled. In view of the above remarks, Applicant respectfully submits that the new claims are in a condition for allowance and requests that this rejection be withdrawn.

CONCLUSION

In view of the aforementioned amendments and remarks, Applicant respectfully submits that the above-referenced application is now in a condition for allowance and Applicant respectfully requests that the Examiner withdraw all outstanding objections and rejections and passes the application to allowance.

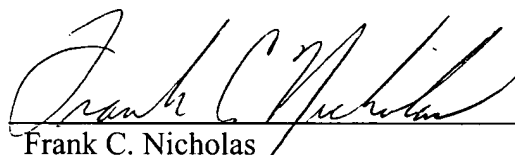
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Respectfully submitted,
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